THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.6064 of 2007

Date 5-6-2007

Between:
Dr. B.K.verma

.....

PETITIONER.
AND

Union of India, rep. By its Secretary,
Ministry of Science & Technology,
Technology Bhavan,
New Delhi & others.

.....RESPONDENTS

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION NO.6064 of 2007

ORDER: (per Smt. T. Meena Kumari,J)

The petitioner filed the present writ petition seeking a writ of certiorari to call for the records relating to the Assessment Committee Meeting held on 27th and 28th November, 2001 to consider the assessment promotion of Scientists 'F' in Grade-IV(6) in the pay scale of higher grade post of Scientist 'G' in gr. IV(6) in the pay scale of Rs. 18,400-22,400/- under the provisions of MANAS and O.M. No. 3(25)/97-EII. Dated 2.1.2002 issued by the 3rd respondent and to quash the same by declaring it as illegal, arbitrary and unconstitutional in so far as the petitioner herein and the respondents 6 to 10 are concerned by holding that the petitioner herein is entitled to be considered for promotion to Scientist 'G' Grade for the assessment year 1998-99 with effect from 1.4.1998 with all consequential benefits. He also sought for a consequential direction to set aside the judgment in O.A. No. 679 of 2002, dated 3.5.2006 and to direct the respondents to reassess the claim of the petitioner afresh.

The brief facts of the case are that the petitioner was working as Scientist 'F' in the National Geophysical Research Institute (N.G.R.I.), Hyderabad. While so, he became eligible for promotion to Scientist Grade 'G' on 1.4.1998. However, he retired from service on 29.2.2000 on attaining the age of superannuation. Subsequently, on 22.6.2000 he was selected as Scientist 'G'. The only apprehension of

the petitioner was that Dr. H. K. Gupta, the past Director of N.G.R.I. under whom he completed 5 to 6 years of service was one of the members of the Assessment Committee which reviewed the applications of the candidates, might have acted against him. He further alleged that Dr. Gupta's failure in sending the A.P.A.R. assessment in time, had delayed the holding of the Selection Committee meting and ultimate denial of promotion to him. He, therefore, filed O.A. No. 679 of 2002 before the Central Administrative Tribunal, Hyderabad Bench seeking directions to consider his case for promotion to Scientist 'G' Grade afresh with effect from 1.4.1998 with all consequential benefits. The Tribunal, by the order impugned in the writ petition, dismissed the O.A. Hence, the petitioner filed the present writ petition.

Learned counsel for the petitioner contends that due to non-communication of A.P.A.Rs. in time, the Selection Committee could not properly assess the performance of the petitioner and ultimately, he was denied promotion. He, therefore, submits that had the A.P.A.Rs. been communicated in time, he would have been promoted as Scientist 'G' in the year 1998-99 itself. He also relied upon the judgment of the Tribunal in O.A. No. 1560 of 1999, dated 26.6.2000. He further contended that due to non-constitution of Selection Committee for the earlier years, he was deprived of getting promotion. He, therefore, prayed that the writ petition be allowed and the order impugned in this writ petition be set aside.

Learned counsel for the respondents, on the other hand, supported the impugned order. He further submitted that the judgment relied upon by the learned counsel for the petitioner would not be applicable to the case on hand and prayed that the writ petition be dismissed.

Admittedly, in the Selection Committee Meeting which was held in the year 2000, the case of the petitioner for promotion to the post of Scientist Grade 'G' for year 1998-99 was considered and

hence it cannot be said that there is any delay.

So far as the case of Atchuta Rao, on which reliance was placed by the learned counsel for the petitioner is concerned, in that case, though the assessment report was prepared on 25.8.1992, the same was communicated to him only on 27.9.1994, which deprived him of the opportunity to improve his performance. Further, when the performance of the said Atchuta Rao had to be assessed by an officer higher than his rank, it was assessed by an officer lower to his rank leading to improper assessment. Therefore, the Tribunal after taking all those factors into consideration, gave a direction to the respondents to re-consider the self appraisal report of Atchuta Rao and assess his suitability for further promotion to the higher scientific grade.

The same is not the case of the petitioner herein. In the instant case, though there is some delay in preparation of Appraisal report, the case of the petitioner was considered for promotion by the selection committee in its meeting held in the year 2000 and since the petitioner was awarded highest marks, it cannot be said that there is any improper assessment of the performance of the petitioner and thus, no malafides can be attributed to the selection committee. In the circumstances, the case of Atchuta Rao is distinct and separate and the same cannot have any bearing on the present case.

So far as the non-constitution of Selection Committee for the earlier years is concerned, since the petitioner has not questioned the non-constitution of the selection committee at the relevant time, the petitioner cannot question the same at this distance of time.

For the aforementioned reasons, we do not find any reason to interfere with the order of the Tribunal dismissing the O.A. The writ petition is accordingly dismissed. No costs.

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T. MEENA KUMARI,J

DATE: 5th June, 2007

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G. CHANDRAIAH,J

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